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6 I] 2 2

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Kashane Kirk, as Personal Representative and on behalf of the Estate of Leontae Kirk; Sharon Roberts, individually; Brittnie Turner, on behalf of and as legal guardian and parent of her minor child, MC,

Plaintiffs,

VS.

City of Phoenix, a governmental entity; Michael Sullivan, Chief of the Phoenix Police Department; Autumn Ladines and John Doe Ladines, husband and wife; Officer Antonio Garza and Jane Doe Garza, husband and wife; Sergeant Eric Roy and Jane Doe Roy, husband and wife; Jaclyn Ravelo and John Doe Ravelo, husband and wife; Steven Ramirez and Jane Doe Ramirez, husband and wife, and; Jonathan Howard and Jane Doe Howard, husband and wife,

Defendants.

No.: CV-23-00836-PHX-MTL (CDB)

PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

(Assigned to the Honorable Michael T. Liburdi and referred to the Honorable Camille D. Bibles)

Through counsel undersigned and pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure and Rule 15.1(a) of the Local Rules of Civil Procedure, Plaintiffs respectfully move for permission to further amend their operative pleading by filing a Third

Amended Complaint – a copy of which, with additions and deletions to Plaintiffs' Second Amended Complaint shown, is attached as "Exhibit 1" hereto.

As a result of continuing discussions between the parties for the purpose of further streamlining Plaintiffs' claims, the [Proposed] Third Amended Complaint accomplishes the following: (1) dismissal of Plaintiffs' state law claims as to Defendants Sullivan, Roy, Garza, Ladines, Ravelo, Ramirez, and Howard; (2) combination of Plaintiffs' *Monell* claims into one Count; (3) dismissal of Plaintiffs' battery claim; (4) removal of some conclusory language and addition of citations, and; (5) reduction of the total number of Counts to six. Defendants have indicated to Plaintiffs that they do not oppose Plaintiffs' request – in their own words, they "don't oppose [amendment] based on the agreed upon changes and that [Defendants] are not waiving any objections to the [Third] [A]mended Complaint based on [Defendants'] anticipated motion to dismiss the failure to intervene claim and based on Rule 8."

"The court should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Justice so requires here, as these proceedings are still in the early stages and Defendants, who do not oppose this Motion, will not be prejudiced from amendment at this time. This Motion is supported by the attached [Proposed] Order.

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1 **RESPECTFULLY SUBMITTED** this 7th day of November 2024. 2 MILLS + WOODS LAW, PLLC 3 4 By_ /s/ Sean A. Woods Robert T. Mills 5 Sean A. Woods 5055 North 12th Street, Suite 101 6 Phoenix, AZ 85014 Attorneys for Plaintiffs 8 9 **CERTIFICATE OF SERVICE** 10 I hereby certify that on November 7, 2024, I electronically transmitted the foregoing 11 document to the Clerk's Office using the ECF System for filing and transmittal of a Notice 12 of Electronic Filing to the following ECF registrants: 13 Sarah L. Barnes 14 slb@bowwlaw.com Kelley M. Jancaitis 15 kmj@bowwlaw.com 16 Jeremiah M. Sullivan jms@bowwlaw.com 17 BROENING OBERG WOODS & WILSON, P.C. kel@bowwlaw.com 18 szb@bowwlaw.com 19 rla@bowwlaw.com 2800 N Central, 16th Floor 20 Phoenix, AZ 85004 21 Attorney for Defendants City of Phoenix, Sullivan, Ladines, Garza, Roy, Makic, Ravelo, Ramirez, 22 Howard, Traylor, and Reddy 23 24 /s/ Ben Dangerfield 25 26 27 28